ROLE OF GRAM NYAYALAYA IN REDUCING THE PENDENCY OF CASES (a study with special reference to the State of Rajasthan)

A

REVISED SYNOPSIS

FOR REGISTRATION IN THE Ph.D. PROGRAMME

IN LAW

SUBMITTED TO THE

MAHARSI DAYANAND SARASWATI UNIVERSITY,

AJMER

YEAR – 2016-17

SUBMMITED BY

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APPENDIX - IV-A
Format for Outline (Synopsis) of Proposed Research work
(to be supplied in Four copies)

(Reference Ord. 124.11)

1. Name of Scholar (In English) KANA RAM KUMAWAT

(In Hindi) काना राम कुमावत

2. Title of the Research Work :

(In English) **ROLE OF GRAM NYAYALAYA IN REDUCING THE PENDENCY OF CASES (a study with special reference to the State of Rajasthan)**

(In Hindi) "लम्बित न्यायिक प्रकरणों को कम करने में ग्राम न्यायालय की भूमिका (राजस्थान राज्य के विशेष संदर्भ में अध्ययन)

3. Location

a. Institution/Department where the work is to be done : Govt. Law college Ajmer

b. Geographical area of Investigation, if any. : Rajasthan

4. Introduction Importance of Proposed Investigation, Objective.

5. Review (Work already done on the subject of proposed Research Study.)

6. Research Gaps identified in the proposed field of investigation. (Based on the review)

7. Major Hypothesis, if any

8. Research methodology.

9. List of references cited. **(Synopsis attached for above 4 to 8 points)**

Signature of the Candidate with date

Outline Approved

Dr. SUNIL KUMAR

Name and Signature of supervisor with date & seal.

Lecturer
Govt. Law College, Ajmer

Forwarded for necessary action.

20/02/17

राजकीय विधि महाविद्यालय

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INTRODUCTION

'Justice is never given; it is always a task to be achieved'

-Friedrich[5]

Delayed and costly administration of justice is the thrust problem of present system. In addition, the complicated and complex condition of judicial and legal process deprives justice with the hands of people. The Judicial process has become unwieldy, therefore pleadings in it have become formal and thereby law itself has become alien to huge number of people, as proceedings are so complicated that a lay man hardly understands them.

Indian Constitution mandates justice as: social political and cultural, even then present legal system deprives one from speedy justice. Inordinate delay in court proceedings causes hardship and sometimes deprives persons from justice, as delay in justice is denial of justice therefore expeditious justice is the need of the day.

The present legal system contains puzzling crowd of rules and procedures, which stun both judges and lawyers akin. The huge fees of lawyers, monopoly of legal knowledge and like factor comes in way while seeking justice in court of law by an ordinary person. Such situation is dangerous and explosive[6] in nature we should realise its gravity at earliest for the betterment for all of us.

In Indian courts there is huge number of cases pending relating to various matters at Central and State levels as India judicial system is unable to deliver timely justice because of huge backlog of cases for which the current judge strength is completely inadequate. Further, in addition to the already backlogged cases, the system is not being able to keep pace with the new cases being instituted, and is not being able to dispose of a comparable number of cases.

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[5] Justice the Just Political Act, at 34

[6] P.M. Bhagwatl- Hon'ble former Chief Justice of India

As noted above India being a democracy country, our constitution guarantees to its citizens various fundamental rights as well as civil and political Rights that is why up to some extent lot of disputes has been raised and ultimately it raised to the court and last sixty seven year over court form top to bottom are hipped with pending cases today on an average 2.5 crores cases are pending in supreme court, in High Courts and in Lower Courts. These Pending cases are proving the maxim " **Justice Delayed Justices Denied**" so that speedy justice delivery is an urgent need to the day.

There is a lack of efficient efforts to be made in this regards to deliver speedy justice. The number of courts has been enhanced paralegal services has been instituted through legal service authority Act, 1987, Lok Adalats, pre litigation convincing, mediation, arbitration are some examples of this efforts. In this way not only those but some courts are established like MACT Courts , Consumer forums, Labor tribunals, Family courts, SCST courts, Mobile courts and gram nyayalaya courts.etc has been established.

Although there is alternative mechanisms as mentioned above the pendency of cases is rapidly increasing on the basis of observation done by some prior researchers. It has been observed that the pendency in the courts are relating to the pity civil matters which comes under the pecuniary jurisdiction of civil Judge Junior division to solve these cases to sought out the problem initiatives at the government level was made at gram panchayat level several small courts were decided to be establish. It will layering the cases at Panchayati level as well as minimize the hipped of cases at lower courts of District level.

The first gram Nyayalaya was established under Gram Nyayalayas Act, 2008 and law commission's reports in Bassi Village in Jaipur district in state of Rajasthan on the date of November 27, 2010 by Law minister Veerappa Moily[3] Keeping in the objectives that the Gram Nyayalaya will be helpful in minimizing the pendency of cases.

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[3] Imtiyaz ahamad V state of Utter Pradesh and other AIR 2012 642 and low commission report no 245

Objectives of Research

Research will be done on the above aspects of the subject matter with the following aims and objectives:-

(i) To expound the concept of Justice;

(ii) To find out the salient features of the Theory of Judicial Pendency in India.

(iii) To find out Alternative mechanism for solved the problem about huge pendency in courts in India.

(iv) To suggest appropriate strategies for solve pendency in India.

(v) To analyze the legal and constitutional provisions relating to judicial process in India.

(vi) Examine the role of lawyers, judiciary how to solve the pendency of cases.

(vii) To analyze the regulatory problems faced by the judiciary in India.

(viii) Examine the existing laws for judicial trials in India.

(ix) How gram Nyayalaya act will help to solve the pendency problem in village level.

(x) Whether any new law is to be made in the area.

(xi) If new law is made what will be its ingredients.

Literature Review

Hitherto any specific research is done on this area. Before Attempting to conduct research on any problem. Its is essential to conduct the survey of the related literature. The related literature includes the work already done and published in the form of books, research articles, research paper, news paper, journals, seminar papers and the like. The research therefore, has conducted as in depth survey of the literature available one the problem and the present section is devoted to it. In recent years the trend in the system of justice is that it is affecting the functioning of various units of Judicial system with the result that either the law is harsh or the

enforcement officials have powers to exercise, and all these have their adverse effect on the rights of the individuals. Such a change is reflected in the literature which has come up in recent years. Learned writers on the system of justice have pointed out the change very nicely which go to establish the need for reverting to the system of Judicial pendency. In certain cases the judges dealing with the cases pointed out the emerging trend; even the enquiry commissioners who had to suggest changes in the law pointed out the need for such a change.

J.R Siwach in his article throws light on the pending cases in various High Courts, cases of their arrears and suggestions to the arrears. Among the causes, the author enumerates-increasing number of cases, antiquated judicial procedure drafied legislation, inadequate number of judes, unfulfilled vacancies and long oral argument. Siwach suggests some measures, which include scope drafting of laws, filling of vacancies, short and concise judgments, stopping practice of wirting individual judgement, written submission, restriction of appeal, and other procedural reforms[4].

B.L Verma describe that development of a legal system has, undoubtedly, proved to be an important subject of study as it explains and distinguishes that present form the past.

In the complex moden era, its unility is further strengthened as it provides for comparative research and guidance to law reformers, legislators and scholars[5]

Prof. (Dr.) Madhav Menon, a Talk on the Gram Nyayalaya Bill, Centre for Public Policy Research in association with Kerala Law Academy, The main discussion of the committee was faced with was how to solve the legal problems of harijans, women, poor and needy. Justice Krishna Iyer has expressed his view on the same in the book "Processual Justice of the

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[4] J.R Siwach, "Delay in Justice in India" , in Virender Grover(ed.). Political Process and Role of Courts, New Delh: Deep and Deep Publications, 1997.

[5] B.L Verma, Development of Indian Legal System, New Delhi: Deep & Deep Publications, 1987

People" published by Law Ministry of India. Dr Madhav Menon mentioned that this book is a must read which explores the hindrance to providing justice to all the people in India because of the prevalence of Caste System. He said that to find a solution to any problem, it has to be tackled at the grass root level. So the question is how to bring justice to the poor and needy and this problem also has to be tackled at grassroots levels. Justice Bhagwati in one of the Supreme Court decisions described who is a "Barefoot lawyer" – a social worker or activist working in the area of justice. He further went on to say that lawyers should be found in villages of India. Indian Law Commission in 1980 under Justice Desai published two reports on Urban Litigation and Rural litigation respectively which dealt exclusively with Gram Nyayalaya and their types. He emphasised on the question 'What are the legal needs of the legal poor?'. According to Dr. Madhav Menon, the poor cannot afford justice as the court system prevailing in the country is too expensive. Thus those who are denied justice have nowhere to go.

Dr. Raj Kumar Yadav, in his writing Gram Nyayalaya: A Participatory Forum of Justice in India, Jagan Nath University Haryana; Plebs Association of Law Teachers said that, Justice delivery system established at local level on Gram/Village level. According to the Gram Nyayalaya Act, 2008 section 2(a) Gram Nyayalaya is a court established under section 3(1). As many as 5067 Gram Nyayalayas will be set up in the country in the near future, Union Law Minister M. Veerappa Moily has publicly stated. The Law Commission's 114th report submitted in 1986 focused on Gram Nyayalaya and highlighted cited the high backlog of cases as main factor leading to lack of access to justice. In India million of cases were pending in district and subordinate courts at the end of 2011. Participatory forum of Justice the term is devised by the Law Commission of India in its forwarding letter that it is to be established as envisioned by the Indian Constitution. Law Commission of India report has given stress in its working paper that family disputes relating to marriage, divorce, custody of children, inheritance and succession-share in property, maintenance, etc. must be resolved in taluka/tehsil courts. If any

dispute arises it must be dealt on local level by panchayats, the term lex loci (Latin "the law of the place"). As scientifically suggested by the Law Commission of India that our legal system has 'pyramidal structure'. Supreme court is the apex court. High court in the states and on district courts at district level at present we have flood of cases in our courts. To stop these all Gram Nyayalaya has been envisioned to finish the cases at threshold level which are petty in their nature.

Research Gap

The Current Scenario of Indian Judicial Administration is not satisfactory despite of various aforesaid efforts has been made by the legislature executive and the Judiciary even after the gram nyayalaya. The Research work has been done in this area relating to judicial pendency is not sufficient and a very large vacuum between institutions of cases and disposal of cases in supreme court, high court, and subordinate courts in India.

There for is an urgent need to do for research work focusing on gram nyayalaya. That is why the Researcher has decided to carry a research work under title:

"ROLE OF GRAM NYAYALAYA IN REDUCING THE PENDENCY OF CASES (a study with special reference to the State of Rajasthan)"

Research Hypothesis

The underlying hypothesis of the proposed research study is based on the problem of Judicial pendency in India and the types of alternative mechanism and social responsibility of judiciary for litigants in India judicial objective, balanced, fair, and accurate and fast judicial process to litigants the following hypotheses are formulated for the purposed of testing in this research study:

1. Indian Judiciary has played creative role for solve the judicial pendency problem in India.

2. Is to draw up an impression that Right to Judicial Review and Judicial Activism acts as boon to the depressed and down trodden sections of the society with the improvement and entrenchment in the Era of Fundamental rights by the way of invoking the concepts of PIL (Public Interest Litigation), SIL (Social Interest litigation) and Expanding the horizons of Article 21 ad personal liberty.
3. Gram Nyayalaya are working satisfactory and playing a effective role in speedy disposal of cases at village level and delivering justice.

Research Methodology

The methodology of the proposed work is based on both doctrinal and empirical method of research. The problem shall be analyzed as what is the nature of Judicial pendency and what type of alternative mechanism for solve the Judicial pendency in India. For this primary data shall be collected from the concerned courts with the help of questionnaire and interview method.

The research methodology of the proposed work will be based on available resources and relevant study material. Basically the prior art in this area are the decisions, legislations, executive orders, the books and the opinion of the jurists and persons relevant in the field. The secondary source material for the present inquiry of various documents and journals like Journal of Constitutional and Parliamentary Studies [JCPS], the Indian Journals of Legal Studies [IJLS], Indian Journal of Political Science [IJPS]; Reports of various Commissions like Committee on Fundamental Rights, Law Commission etc., various press releases like Indian press release, Press Council of India press release, etc.

The secondary sources shall also include trend setter judicial decisions. Various relevant books of distinguished writers, jurists and Judges; press clipping; periodicals and journals i.e., the Hindu Editorial; Times of India; Nav Bharat Times; Local News Papers etc,

Primary source in the form of interview method as to collect data form judges, legal experts, advocates and various organizations. The methodology of the proposed project will be based on critically, evaluator, comparatives, analytical, purpose oriented approach to the subject.

Research Design

This Research work will be broadly undertaken under following chapters-

Chapter – I : Introduction

Chapter – II :
- A. Historical background of Judicial System in India
- B. Alternative Dispute Redressal mechanism in India
- C. Concept of Gram Nyayalaya

Chapter – III : Legal pendency in Rajasthan: Current Scenario

Chapter – IV : Role of Parliament and Judiciary in speedy disposal of cases

Chapter – V : Role of Gram Nyayalaya in speedy disposal of cases

Chapter – VI : Conclusion & Suggestions.

Chapter – I, In this part the Introductory part will be discussed, where the problem , hypothesis and universe of the study shall be included.

Chapter- II will be devoted to Historical background of Judicial System in Nnyayalaya.

In Chapter-III Researcher will discuss Legal pendency in Rajasthan and its current Scenario.

Chapter IV the research shall dealt with the Role of Parliament and Judiciary in speedy disposal of cases.

Chapter V shall deal with Role of Gram Nyayalaya in speedy disposal of cases, in which the empirical study shall be conducted to trace out the actual pendency removal by these courts.

Chapter VI which related with the observation, Conclusion & Suggestions in which the observations made and the reason and the work will be concluded with the advancement of suggestions. The researcher will suggest that where the research will be helpful that may to the lawyers, students of law as well as Government body and judiciary to make rule and law for minimize the pendency of cases in courts and common litigants.

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Signature of Supervisor with Seal

Signature of Candidate